

Adams County **Legal Journal**

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IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL
NO. 11-S-576

In Re: Adams County Tax Claim Bureau
Tax Sale No. 113

NOTICE OF PRIVATE SALE PURSUANT
TO 72 P.S. 5860.613

NOTICE IS HEREBY GIVEN that the Adams County Tax Claim Bureau filed a Motion to sell property owned by John Coyle, located in Franklin Township, Adams County, Pennsylvania, pursuant to 72 P.S. 5860.613 at a private sale to David E. McCartney, Jr. and Jacqueline D. McCartney in the amount of \$7,128.43. The subject property is identified as Adams County Tax Map A09 at parcel 67A.

The sale will be conducted at the Office of the Adams County Tax Claim Bureau on the 23rd day of May, at 10:00 a.m., the price being \$7,128.43 in the form of U.S. currency to be paid by David E. McCartney, Jr. and Jacqueline D. McCartney, the proposed purchaser, and that the subject property will be sold free and clear of all tax claims and tax judgments.

Pursuant to 72 P.S. 5860.613, the corporate authorities of any taxing district having any tax claims or tax judgments against the subject property which is to be sold, the owner(s), any interested party(ies) or any person(s) interested in purchasing the subject property may, if not satisfied that the above-referenced sale price approved by the Adams County Tax Claim Bureau is sufficient, shall, within 45 days after notice of the proposed sale, petition the Court of Common Pleas of Adams County to disapprove said sale. If no Petitions are filed requesting disapproval of the sale on the terms and conditions set forth herein, upon Motion by the Adams County Tax Claim Bureau, the private sale as above-defined shall be confirmed absolute.

Danielle Helwig - Director
Adams County Tax Claim Bureau
117 Baltimore Street
Gettysburg, PA 17325
(717) 337-9831

3/16 & 30

NOTICE OF ACTION IN
MORTGAGE FORECLOSURE

IN THE COURT OF COMMON PLEAS
OF ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 11-SU-1508

U.S. Bank National Association, Plaintiff
vs.

Robert J. Stevenson, Defendant

NOTICE

TO: Robert J. Stevenson, Defendant,
whose last known address is 67
Meadowlark Trail a/k/a 67 Meadow Lark
Trail, Fairfield, PA 17320.

COMPLAINT IN MORTGAGE
FORECLOSURE

You are hereby notified that Plaintiff, U.S. Bank National Association, has filed a Mortgage Foreclosure Complaint, endorsed with a Notice to Defend, against you in the Court of Common Pleas of Adams County, Pennsylvania, docketed to NO. 11-SU-1508, wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 67 Meadowlark Trail a/k/a 67 Meadow Lark Trail, Fairfield, PA 17320, whereupon your property would be sold by the Sheriff of Adams County.

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the notice above, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH ABOVE RIGHT. THIS OFFICE CAN PROVIDE YOU WITH THE INFORMATION ABOUT HIRING A LAWYER. IF YOU

CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Court Administrator
Adams County Courthouse
Gettysburg, PA 17325
(717) 337-9846

Gregory Javardian, Mary F. Kennedy
& Meghan K. Boyle
Attorneys for Plaintiff
Powers, Kirm & Javardian, LLC
1310 Industrial Blvd., Ste. 101
Southampton, PA 18966
(215) 942-2090

3/16

CERTIFICATE OF REGISTRATION

NOTICE IS HEREBY GIVEN that in compliance with the requirements of 15 Pa. C.S. §§ 8913 a Certificate of Registration – Domestic Limited Liability Company was filed on February 6, 2012, with the Commonwealth of Pennsylvania, Department of State, at Harrisburg, for the purpose of registering a limited liability company.

The name of the limited liability company is ALL ANGLES SQUARED, LLC, having a registered address of 15 Lee Trail, Carroll Valley, Adams County, Pennsylvania 17320.

The purpose for which the limited liability company was organized is: to engage in and do any lawful act concerning any and all lawful business for which limited liability companies may be formed in accordance with the laws of the Commonwealth of Pennsylvania.

Todd A. King, Esq.
Campbell & White, P.C.
112 Baltimore Street
Gettysburg, PA 17325

3/16

CAMPBELL VS. BLACK ESTATE

1. Impermissible testimony may be grounds for a new trial.
2. To constitute reversible error, an evidentiary ruling must not only be erroneous, but also harmful and prejudicial to the complaining party.
3. The law presumes that the jury followed the curative instructions of the Court.
4. Rule 4003.5(c) does not prohibit an expert from testifying regarding matters that he has not been interrogated about during discovery. Although the Rule limits an expert's testimony to the fair scope of his testimony in discovery proceedings, there is no prescribed definition of what constitutes the "fair scope" of an expert's pretrial reports.
5. In determining whether an expert's trial testimony falls within the fair scope of his pretrial report or testimony, a trial court must determine whether the report provides sufficient notice of the expert's theory to enable the opposing party to prepare a rebuttal witness.
6. It is well established that where introduction of evidence at trial is objected to for a specific reason, other reasons are waived and may not be asserted post-trial for the first time.
7. Error in a jury charge is a sufficient ground for a new trial if the charge as a whole is inadequate or not clear, or has a tendency to mislead or confuse the jury, rather than clarify a material issue.
8. A party challenging a jury instruction must make a timely and specific objection to preserve for review a claim that the jury charge was legally or factually flawed.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 09-S-372, JASON CAMPBELL AND HURON WRIGHT-CAMPBELL VS. JUDITH KOPER MORRIS, ADMINISTRATRIX OF THE ESTATE OF WANDA JEAN BLACK, A/K/A WANDA J. BLACK.

Richard Oare, Esq., for Plaintiff
Seth Black, Esq., for Defendant
Campbell, J., September 14, 2011

OPINION ON DEFENDANT'S MOTION FOR POST-TRIAL RELIEF

Before this Court is Defendant's Motion for Post-Trial Relief filed May 16, 2011. Defendant alleges that she is entitled to a new trial based on the admission of impermissible testimony and impermissible evidence, and improper jury charges at the trial held May 4, 2011 through May 6, 2011.

On March 11, 2009, Plaintiffs initiated this cause of action by writ of summons. On May 8, 2009, Plaintiffs filed their Complaint against Defendant. Plaintiffs' Complaint alleged negligence based on an automobile accident that occurred on May 20, 2007 on Route

30 in Straban Township, Adams County, Pennsylvania. Specifically, Plaintiffs alleged that they were stopped at a red light in their vehicle, and Wanda Jean Black failed to stop, rear-ending Plaintiffs' vehicle. On July 15, 2009, Defendant filed her Answer with New Matter, and on July 31, 2009, Plaintiffs filed their Answer to Defendant's New Matter. Trial was scheduled for the May 2011 civil trial term. A civil jury trial was conducted on May 4, 2011 through May 6, 2011. At the conclusion of the trial and after closing arguments, but before the jury was instructed, Plaintiff, Jason Campbell, withdrew his claim for damages. The jury awarded the following sums to Plaintiffs:

Huron Wright-Campbell

Past Wage Loss and Benefits	\$ 15,000.00
Future Wage Earning Capacity	\$125,000.00
Pain and Suffering	\$ 10,000.00
Loss of Consortium (Jason Campbell)	\$ 0.00
Punitive Damages	\$ 0.00
TOTAL	\$150,000.00

On May 11, 2011, Defendant filed a Motion to Mold Verdict. By Order dated May 12, 2011, Defendant's Motion to Mold Verdict was granted, and the verdict was molded from \$150,000.00 to \$55,000.00. On May 16, 2011, Plaintiffs filed a Motion for Delay Damages, which was subsequently denied by Order dated May 24, 2011. Additionally, on May 16, 2011, Defendant filed a Motion for Post-Trial Relief requesting a new trial. Defendant filed her Brief in Support of Motion for Post-Trial Relief on July 12, 2011. Plaintiffs filed their Brief in Opposition to Defendant's Motion for Post-Trial Relief on August 11, 2011.

The following standard/scope of review applies to a request for a new trial:

When responding to a request for a new trial, a trial court must follow a two-step process. First, a trial court must decide whether one or more mistakes occurred at trial. Second, if the court determines that a mistake occurred, it must determine whether the mistake was a sufficient basis for granting a new trial. The harmless error doctrine underlies every decision to grant or deny a new trial. A new trial is not warranted merely because some

irregularity occurred during the trial or another trial judge would rule differently; the moving party must show prejudice resulting from the mistake.

Daddona v. Thind, 891 A.2d 786, 797 (Pa. Cmwlth. 2006) (internal citations omitted).

Defendant asserts she is entitled to a new trial based on impermissible testimony, impermissible evidence, and improper jury charges.

Impermissible Testimony

Defendant first asserts she is entitled to a new trial based on the impermissible testimony of Terry Leslie, Trooper Scott Weaver, and Kenneth Murray, M.D. Each witness will be addressed in that order. Impermissible testimony may be grounds for a new trial. See *Nigra v. Walsh*, 797 A.2d 353, 356 (Pa. Super. 2002). The following standard of review applies to the admission of evidence, including testimony:

... the decision to admit or exclude evidence, including expert testimony, lies within the sound discretion of the trial court ... [an appellate court] may only reverse upon a showing that the trial court clearly abused its discretion or committed an error of law. To constitute reversible error, an evidentiary ruling must not only be erroneous, but also harmful and prejudicial to the complaining party.

Harris v. Toys “R” Us — Penn, Inc., 880 A.2d 1270, 1274 (Pa. Super. 2005) (citation omitted).

Terry Leslie was qualified by this Court as an expert in the field of vocational rehabilitation. In formulating his opinion, Mr. Leslie reviewed several documents including medical records for Ms. Campbell, income tax returns, W-2 forms, the Complaint, a deposition of Ms. Campbell, and a missed work time card. Mr. Leslie also interviewed Ms. Campbell. Based on his document review, as well as his interview with Ms. Campbell, Mr. Leslie prepared a report wherein he opined that Ms. Campbell’s total future loss of earnings and fringe benefits amounted to \$581,783.00. Additionally, Mr. Leslie opined that Ms. Campbell’s total loss of historical earnings and fringe benefits amounted to \$50,824.00.¹ In summary, Mr.

¹ Mr. Leslie’s historical wage loss figure included Ms. Campbell’s loss of earnings from the date of the accident, May 20, 2007, through the date of his report, April 28, 2010.

Leslie opined that Ms. Campbell's total losses of earnings and fringe benefits, both historic and future, amounted to \$632,607.00.

During direct examination of Mr. Leslie, Plaintiff questioned Mr. Leslie regarding Ms. Campbell's future prospects for employment at the time of the accident. Mr. Leslie indicated that it was Ms. Campbell's goal to become the manager of the veterinary clinic. Then, the following line of questioning by Plaintiff's counsel occurred:

ATTORNEY OARE: So that position would have paid higher?

MR. LESLIE: Yes.

ATTORNEY OARE: Were you able to ascertain what that was?

MR. LESLIE: It would have been double what she was making.

(N.T. p. 111, May 4, 2011).

Defense counsel objected on the basis that the possibility of Ms. Campbell being a manager and earning double her current salary was beyond the scope of Mr. Leslie's report. After a discussion at sidebar, this Court sustained Defendant's objection to the extent that information was not contained in Mr. Leslie's report. Plaintiff again attempted to elicit testimony regarding Ms. Campbell's ability to double her income if she received the managerial position at the veterinary clinic where she had worked at the time of the accident. Once again, defense counsel objected, and this Court gave the following curative instruction to the jury:

THE COURT: Ladies and gentlemen, you cannot consider any evidence as to what may have been the salary if she had been named to an office manager position. You should disregard that testimony.

(N.T. p. 116, May 4, 2011).

This Court did what defense counsel asked and properly excluded the speculative testimony. Additionally, to prevent any prejudice to Defendant, this Court gave a curative instruction to the jury to disregard any such testimony, and the law presumes that the jury followed the instructions of the Court. *Paves v. Corson*, 801 A.2d 546, 550 (Pa. 2002) (citation omitted). Notably, the jury only awarded Ms. Campbell \$15,000.00 in past wage loss and benefits and \$125,000.00

in future wage earning capacity, for a total of \$140,000.00, which is well under the \$632,607.00 in past and future earnings that Mr. Leslie opined in his report.² By awarding sums well under the amount opined by Mr. Leslie, it is evident that the jury followed this Court's instruction to disregard any testimony about Ms. Campbell's potential to earn double wages if she was promoted to a managerial position at the veterinary clinic. The testimony to which Defendant objected was not admitted. This Court sustained Defendant's objection and instructed the jury accordingly. Further, Defendant has not established that she was prejudiced by Plaintiff's attempts to elicit testimony beyond the scope of Mr. Leslie's expert report.

Defendant also objects to Plaintiff's questioning of Mr. Leslie on redirect examination regarding whether Ms. Campbell was a "motivated individual." On cross-examination, Defendant questioned Mr. Leslie regarding Ms. Campbell's ability to return to work and how that affected his opinion regarding Ms. Campbell's wage earning ability. Specifically, the following line of questioning occurred:

ATTORNEY BLACK: And I mean, you do state in your report, and I think you testified on direct that I guess it's your belief that she's recommended for surgery, correct?

MR. LESLIE: I have at least three medical opinions indicating that she needs fusions, yes.

ATTORNEY BLACK: And based on your figures, you're assuming that those fusions are not going to then enable her to return to work; is that correct?

MR. LESLIE: I have no indication as far as what the recovery would be from those surgical procedures.

ATTORNEY BLACK: And if I were to tell you that Dr. Furman testified or would be testifying that he now believes he could return her to work after injections, that would affect your numbers, correct?

² The \$632,607.00 total earnings loss expressed by Mr. Leslie was based on Ms. Campbell's actual wages and not on the speculative salary she might have earned in the event that she received her desired promotion.

MR. LESLIE: That's possible. She's had a significant amount of injections now, so...

(N.T. p. 121, May 4, 2011).

On redirect examination, Plaintiff attempted to ask Mr. Leslie whether he believed Ms. Campbell was motivated to return to work. Following an objection by Defendant, this Court overruled the objection on the basis that Defendant had opened the door to that line of questioning by inquiring during cross-examination about Ms. Campbell's ability to return to work. This ruling was not in error. By inquiring as to Ms. Campbell's ability to return to work, Defendant opened the door to questioning on redirect regarding Ms. Campbell's potential to return to work, including how her motivation to do so might affect Mr. Leslie's opinion. It was not an abuse of discretion or error of law to allow Mr. Leslie to testify on redirect examination about Ms. Campbell's motivation to return to work when defense counsel questioned the witness about whether the witness's calculations would be affected by her ability to return to work.

Defendant next alleges that the jury was presented with prejudicial testimony from Trooper Scott Weaver during direct examination and closing argument. Prior to Trooper Weaver's testimony, Defendant argued that Ms. Black's arrest as well as Trooper Weaver's handcuffing of Ms. Black should not be brought to the jury's attention. This Court properly sustained Defendant's objection by stating, "I think that any testimony as to handcuffing and beyond that is prejudicial." **(N.T. p. 138, May 5, 2011).** During direct examination of Trooper Weaver, Plaintiff asked the following questions:

ATTORNEY OARE: And what was your conclusion based on your observation?

TROOPER WEAVER: That she was driving under the influence.

ATTORNEY OARE: And what did you do as a result of that?

TROOPER WEAVER: I placed Miss Black into custody and transported her to Gettysburg Hospital.

ATTORNEY OARE: And as a result of that, did you lodge any charges?

TROOPER WEAVER: Yes, I did.

ATTORNEY OARE: And what were they?

TROOPER WEAVER: Driving under the influence, incapable of safe driving (a)(1) and driving under the influence at a high rate of alcohol and careless driving.

(N.T. p. 148, May 5, 2011).

Defense counsel did not object at any time during this questioning. Defense counsel allowed the line of questioning to continue. At the conclusion of Plaintiff's direct examination, Defendant's counsel indicated that he had no questions for Trooper Weaver but asked to approach sidebar. At sidebar, Defendant's counsel argued that the testimony elicited by Plaintiff on direct examination of Trooper Weaver regarding Ms. Black's arrest was precluded by virtue of this Court's earlier ruling that any testimony as to handcuffing or beyond was prejudicial. Defense counsel asked this Court to give a curative instruction to the jury. This Court complied with defense counsel's request and immediately gave the following instruction:

THE COURT: Ladies and gentlemen, based on some of the testimony that was just presented, I need to instruct you that the last portion of that testimony should be disregarded and that is that the Defendant was arrested and charged as a result of the accident. The remainder of the testimony, including the Trooper's opinion, is proper for you to consider, okay?

(N.T. pp. 150-51, May 5, 2011).

This instruction is exactly what defense counsel asked this Court to give.

Later, Plaintiff's counsel made the following statements during his closing argument:

ATTORNEY OARE: Finally, you get to the issue of punitive damages. You have heard the testimony of Jason, and you've heard the testimony of Trooper Weaver, and you're able to make a determination as to whether or not there was a basis for her to stop and be charged.

(N.T. p. 245, May 5, 2011).

Defendant did not object to Attorney Oare's statement during closing argument.

Defendant was not prejudiced by this Court's rulings on Trooper Weaver's testimony or the curative instruction given to the jury. Indeed, this Court essentially sustained defense counsel's unspoken objection and gave the exact cautionary instruction to the jury as requested by defense counsel. Testimony regarding the handcuffing and arrest of Ms. Black was not admitted by this Court. To prevent any prejudice to Defendant based on the testimony elicited during the direct examination of Trooper Weaver, this Court gave a precautionary instruction to the jury to disregard any such testimony. As previously stated, the law presumes that the jury followed the instructions of the Court. *Paves*, 801 A.2d at 550 (citation omitted). Additionally, while this Court had ruled such testimony inadmissible prior to the jury entering the courtroom, defense counsel's obligation to listen to the questions and argument by Plaintiff's counsel and properly object during questioning was not extinguished. Counsel cannot sit back doing nothing and then later complain that evidence was improperly admitted.

Finally, although the jury found that Ms. Black's actions were outrageous, it did not award any punitive damages to Plaintiffs. Based on the jury's findings, it is clear that the jury followed this Court's curative instruction and did not consider any evidence of Ms. Black's arrest and charges when determining punitive damages. Based on that fact and considering that this Court granted defense counsel's request at trial, Defendant has not established any prejudice related to Trooper Weaver's testimony. Further, as this Court did not commit an abuse of discretion or error of law related to Trooper Weaver's testimony, Defendant has not established any grounds to warrant a new trial.

Defendant also argues that the jury was presented with the impermissible testimony of Kenneth Murray, M.D. Dr. Murray testified as one of Ms. Campbell's treating physicians.³ Defendant specifically alleges that it was an error for the Court to allow Dr. Murray to testify

³ At the June 29, 2010 videotaped deposition of Dr. Murray, the parties proceeded as if Dr. Murray was qualified as an expert, although he was never formally tendered to this Court as such. For instance, *voir dire* was conducted regarding Dr. Murray's qualifications. (**Plf.'s Ex. 7, Tr. of Dr. Murray, pp. 5-8**). Dr. Murray also rendered an opinion, to a reasonable degree of medical certainty, that the direct and proximate cause of Ms. Campbell's injuries was the May 20, 2007 accident, and Defendant did not object to Dr. Murray rendering such an opinion. (**Plf.'s Ex. 7, Tr. of Dr. Murray, p. 16**). Based on these circumstances, this Court will address Defendant's issues as if Dr. Murray was both a fact witness and expert witness.

regarding a new stem cell procedure that allows doctors to take stem cells to generate new discs because this information was not contained within Dr. Murray's *medical records*. Pennsylvania Rule of Civil Procedure 4003.5(c) provides that:

[t]o the extent that the facts or opinions held by an expert have been fully developed in discovery proceedings under subdivision (a)(1) or (2) of this rule, the direct testimony of the expert at trial may not be inconsistent with or go beyond the fair scope of his or her testimony in the discovery proceedings as set forth in the deposition, answer to interrogatory, separate report, or supplement thereto. However, the expert shall not be prevented from testifying as to facts or opinions on matters on which the expert has not been interrogated in the discovery proceedings.

Pa. R. Civ. P. 4003.5(c).

Importantly, Rule 4003.5(c) does not prohibit an expert from testifying regarding matters that he has not been interrogated about during discovery. *Id.* Although the Rule limits an expert's testimony to the fair scope of his testimony in discovery proceedings, there is no prescribed definition of what constitutes the "fair scope" of an expert's pretrial reports. The purpose of Rule 4003.5(c) is to prevent unfair surprise to an adversary concerning the facts and substance of an expert's proposed testimony. *Daddona*, 891 A.2d at 805. The question of whether permissible limits of testimony were violated is determined on a case by case basis. *Id.* In determining whether an expert's trial testimony falls within the fair scope of his pretrial report or testimony, a trial court must determine whether the report provides sufficient notice of the expert's theory to enable the opposing party to prepare a rebuttal witness. *Id.*

Instantly, Dr. Murray's testimony was presented in video format, as his deposition had been previously taken on June 29, 2010. Prior to the jury viewing Dr. Murray's testimony, Defendant objected to the portion of the testimony where Dr. Murray referenced new stem cell procedures on the basis that they were outside the scope of his report, which according to Defendant would be Dr. Murray's medical records.⁴ Dr. Murray's testimony was as follows:

⁴ To this Court's knowledge, Dr. Murray did not author an expert report.

DR. MURRAY:

Age is a factor because the average lady lives to be 90 years old now, and the more active you are, of course the more likely you are to break down at that level above or below the fusion.

The other factor that was in play here, and I mentioned this to all my patients, most of my Ph.D. was done in immunochemistry, are the stem cells and the stem cells no of course can be derived from a patient's skin, and I've been saying all along that they are going to be able to make new disks for patients. So as it turns out that five weeks ago they just started doing this for humans. It's a group in Colorado, and they are taking the skin from a patient and mixing it with their stem cells, nothing to do with the fetus, and they are injecting it back into the disk and the disk is regrowing.

Now, this is the ideal situation because working around this in your back is not normal because it stresses above and below, so ideally this would be something worth waiting for.

(Plf.'s Ex. 4, Tr. of Dr. Murray, pp. 30-31).

This Court overruled Defendant's objection and allowed the testimony. Indeed, Ms. Campbell had previously testified about the new procedure.

This Court's ruling was not in error. Prior to playing Dr. Murray's videotaped testimony, Ms. Campbell testified on direct examination regarding regrowth of discs by using skin cells. **(N.T. pp. 75-76, May 4, 2011)**. Ms. Campbell testified in this regard to explain why she had been holding off fusion surgery. Defendant did not object to this testimony by Ms. Campbell. Dr. Murray then testified that he advises all his patients about the possibility of using stem cells from a patient's skin. **(Plf.'s Ex. 4, Tr. of Dr. Murray, p. 30)**. The fact that this surgery came out five (5) weeks prior to Dr. Murray's

testimony does not render it outside the “fair scope” of Dr. Murray’s medical records, nor does this Court see how it is prejudicial to Defendant.⁵

Nor does this Court see how Defendant was subject to unfair surprise when this testimony was elicited. It is important to note that Dr. Murray’s videotaped deposition occurred on June 29, 2010. Trial commenced on May 4, 2011. In the almost one-year period between Dr. Murray’s testimony and trial, Defendant was free to investigate the new stem cell procedure through supplemental discovery to possibly rebut Dr. Murray’s testimony at trial.⁶ There was no unfair surprise to the defense. Defense counsel had ample advance notice of Dr. Murray’s testimony and had time to prepare a rebuttal witness. Further, Defendant was not prejudiced by Dr. Murray’s testimony on this point. This Court did not abuse its discretion or commit an error of law as it relates to the admission of Dr. Murray’s testimony.

Accordingly, Defendant has not established grounds for a new trial based on the alleged impermissible testimony of Mr. Leslie, Trooper Weaver, or Dr. Murray.

Impermissible Evidence

Next, Defendant argues she is entitled to a new trial based on impermissible evidence. It is well established that where introduction of evidence at trial is objected to for a specific reason, other reasons are waived and may not be asserted post-trial for the first time. *Siter v. Maryland Peat & Humus Co.*, 363 A.2d 1221, 1223 (Pa. Super. 1976); see also *Stine v. Com., Dept. of Transp.*, 364 A.2d 745, 746 (Pa. Cmwlth. 1976) (“When objections are specifically stated, all other grounds for objections are waived”).

Instantly, Defendant now asserts that this Court improperly admitted a medical summary of Ms. Campbell’s treatment as well as two (2) volumes of Ms. Campbell’s medical records because they are

⁵ In fact, the testimony regarding a recently developed new stem cell procedure could have been beneficial to Defendant in the sense that Ms. Campbell could have this procedure and potentially return to work and everyday life activities sooner than anticipated.

⁶ The deposition of Defendant’s expert Dr. Stephen Fedder, who performed an independent medical exam on Ms. Campbell, was taken on April 27, 2011. By that time, defense counsel knew about Dr. Murray’s testimony for almost one year. Defendant could have explored this new stem cell procedure with Dr. Fedder but did not.

hearsay. However, at trial, Defendant did not object to the medical summary or medical records on hearsay grounds. Specifically, at trial, defense counsel objected to the admission of the volumes of medical records on the grounds that they were cumulative, as the jury had heard the testimony from four (4) different witnesses regarding Ms. Campbell's treatment. (**N.T. p. 188, May 5, 2011**). No other grounds for objection were stated. As for the medical summary, when Plaintiff marked the medical summary as an exhibit, Defendant objected on the basis that the medical summary contained a subjective interpretation of the treatment provided. (**N.T. pp. 85-86, May 4, 2011**). However, when Plaintiff later moved to admit the medical summary into evidence, defense counsel indicated that he had no objection to its admission. (**N.T. p. 187, May 5, 2011**). At no time did Defendant assert hearsay as a ground for objection for the medical records or medical summary. Therefore, Defendant's currently stated objections on hearsay grounds to the admission of the medical records or medical summary are waived and are not grounds for post-trial relief.

Accordingly, Defendant has not established grounds for a new trial based on the alleged improperly admitted evidence.

Improper Jury Charges

Finally, Defendant argues she is entitled to a new trial due to improper jury charges by the Court. Error in a jury charge is a sufficient ground for a new trial if the charge as a whole is inadequate or not clear or has a tendency to mislead or confuse the jury, rather than clarify a material issue. *Stewart v. Motts*, 654 A.2d 535, 540 (Pa. 1995). A party challenging a jury instruction must make a timely and specific objection to preserve for review a claim that the jury charge was legally or factually flawed. *Stumpf v. Nye*, 950 A.2d 1032, 1041 (Pa. Super. 2008); *McManamon v. Washko*, 906 A.2d 1259, 1282 (Pa. Super. 2006); *Carpinet v. Mitchell*, 853 A.2d 366, 371 (Pa. Super. 2004).

Instantly, Defendant takes issue with the jury instructions based on the fact that closing arguments occurred prior to a jury charge conference with this Court. Closing arguments occurred on the second day of trial, May 5, 2011, in the afternoon. At closing arguments, Plaintiff's counsel erroneously argued the "substantial factor" standard of causation and also addressed Jason Campbell's damages.

Following closing arguments, a charge conference occurred where the parties agreed that the proper standard is factual cause and that the proper instruction would be given. The parties also agreed that medical expenses would be removed from the verdict slip and that Pennsylvania Standard Civil Jury Instruction 7.170, the standard jury instruction relating to medical expenses when there has been no amount of medical expenses presented, would be given. After the charge conference, Jason Campbell withdrew his claim for bodily injury.

The next day, May 6, 2011, the jury was instructed by this Court. This Court instructed the jury on factual cause, as well as other contributing factors and preexisting condition. Following jury instructions, Defendant's counsel asked to approach sidebar and indicated to this Court that it omitted the medical expenses instruction as previously discussed. This Court then gave the medical expenses instruction requested by defense counsel. After jury instructions, this Court asked counsel if there was anything else that needed to be addressed. Both Plaintiff and Defendant indicated that there was nothing further for this Court to address. The jury began deliberations and submitted a note to this Court asking for the factual cause jury instruction to be reread. This Court spoke to counsel prior to bringing in the jury and indicated that the factual cause instruction would be read in the context of preexisting injury.

Importantly, at no time during or after jury instructions did Defendant object to any of the jury instructions given by this Court, despite having the opportunity to do so. To preserve any challenges to the jury instructions, Defendant was required to make a timely and specific objection to the jury instructions. Therefore, Defendant has waived her challenge to the jury instructions by failing to make a timely and specific objection to each jury instruction allegedly given in error.

Even if the objections are not deemed waived, this Court properly instructed the jury based on the evidence adduced at trial and the claims that remained before the jury. The jury instructions given by this Court were not legally or factually flawed, and were relevant and material to the issues pending for jury deliberation and the facts presented. The instructions clearly set forth the applicable law in the case. In fact, Defendant's Motion for Post-Trial Relief does not

assert that this Court's instructions were legally erroneous. Defendant was not prejudiced by the jury instructions in any way.

Accordingly, for all the reasons stated herein, Defendant's Motion for Post-Trial Relief is denied, and the attached Order is entered.

ORDER

AND NOW, this 14th day of September 2011, for all the reasons stated in the attached Opinion, Defendant's Motion for Post-Trial Relief filed May 16, 2011 is denied.

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION**ESTATE OF CARMENITTA N. CULLERS, DEC'D**

Late of Mount Joy Township, Adams County, Pennsylvania

Executrix: Kathy Bowman, 17 Parkland Court, Gettysburg, PA 17325

Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF WILLIAM ALBERT LAUR, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Co-Executors: Gregory W. Laur, 5406 Talltree Way, West Chester, OH 45069; Katherine A. Laur Bushey, 3220 Harbor Drive, St. Augustine, FL 32084

Attorney: John A. Wolfe, Esq., Wolfe & Rice, LLC, 47 West High Street, Gettysburg, PA 17325

ESTATE OF RICHARD J. LAWRENCE, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executors: Robert E. Lawrence, 342 Iron Street, Bloomsburg, PA 17815; Daniel E. Lawrence, 23 Franklin Drive, McSherrystown, PA 17344

Attorney: David C. Smith, Esq., 754 Edgegrove Rd., Hanover, PA 17331

ESTATE OF INEZ G. LONG, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Kathryn L. Missildine, c/o James T. Yingst, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

Attorney: James T. Yingst, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

ESTATE OF RANDY A. MARKLE, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Administrator: Barry E. Markle, 285 Irishtown Road, Hanover, PA 17331

Attorney: Todd A. King, Esq., Campbell & White, P.C., 112 Baltimore Street, Suite 1, Gettysburg, PA 17325

ESTATE OF DOROTHY M. MOOSE, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Co-Executrices: Pamela R. Hewitt, 306 Gardners Station Rd., Gardners, PA 17324; Donna M. Kuhn, 1991 Heidlersburg Rd., Aspers, PA 17304

Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF JOHN D. MOOSE, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Co-Executrices: Pamela R. Hewitt, 306 Gardners Station Rd., Gardners, PA 17324; Donna M. Kuhn, 1991 Heidlersburg Rd., Aspers, PA 17304

Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF MARY C. MURPHY, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Co-Executors: Joseph Alan Murphy, Lisa Marie Wolf and Thomas George Murphy, c/o Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

ESTATE OF DELORES B. TINCHER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Personal Representative: Dawn R. Paschall, 257 Jefferson St., Hanover, PA 17331

Attorney: G. Steven McKonly, Esq., 119 Baltimore Street, Hanover, PA 17331

ESTATE OF BRENDA JANE TITMAN-SCHULTZ, a/k/a BRENDA J. SCHULTZ, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administrator: John P. Buffington, 944 Edgegrove Road, Hanover, PA 17331

Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

SECOND PUBLICATION**ESTATE OF RUSSELL J. BROWN, DEC'D**

Late of Germany Township, Adams County, Pennsylvania

Executor: Charles R. Brown, c/o Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

Attorney: Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

ESTATE OF ROBERT LAUER ELLER a/k/a ROBERT L. ELLER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Administratrix: Nancy Jo Eller, 4509 Shaff Lane, Frederick, MD 21703

Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

ESTATE OF JOSEPH H. L'ETOILE a/k/a JOSEPH HENRI L'ETOILE, DEC'D

Late of the Borough of Carroll Valley, Adams County, Pennsylvania

Executor: Stephen L'Etoile, 219 Equestrian Road, Warrenton, VA 20186

Attorney: Wendy Weikal-Beauchat, Esq., 63 West High St., Gettysburg, PA 17325

ESTATE OF JOHN R. WHITE, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania

Executrix: Tonya Knouse White, P.O. Box 472, Arendtsville, PA 17303

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION**ESTATE OF RICHARD C. COLE, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executors: Thomas D. Cole, 6134 Adams Street, Jupiter, FL 33458; James J. Cole, 1420 New Road, Orrtanna, PA 17353

ESTATE OF ESTHER HESS a/k/a ESTHER A. HESS, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, PA 17331

Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, PA 17331

(continued on page 4)

THIRD PUBLICATION (CONTINUED)

ESTATE OF SAMUEL J. SHAFER,
DEC'D

Late of Mt. Joy Township, Adams
County, Pennsylvania

Co-Executors: Bradley N. Shafer,
1016 Belmont Road, Gettysburg,
PA 17325; Carol A. Witthoff, 325
Celebration Hill Road, Biglerville, PA
17307

Attorney: Robert E. Campbell, Esq.,
Campbell & White, P.C., 112
Baltimore Street, Suite 1, Gettysburg,
PA 17325-2311

ESTATE OF SARA A. ST. PETER a/k/a
SARA ANNE ST. PETER, DEC'D

Late of Reading Township, Adams
County, Pennsylvania

Executrix: Kimberley Phan, c/o
Edward J. O'Donnell IV, Esq., 141
Broadway, Suite 310, Hanover, PA
17331

Attorney: Edward J. O'Donnell IV,
Esq., 141 Broadway, Suite 310,
Hanover, PA 17331

ESTATE OF MATTHEW E. TURLEY,
DEC'D

Late of the Borough of Littlestown,
Adams County, Pennsylvania

Christina M. Turley, 206 M Street,
Littlestown, PA 17340

Attorney: Brian C. Linsenbach, Esq.,
Stone, Duncan & Linsenbach, PC,
P.O. Box 696, Dillsburg, PA 17019

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that
Articles of Incorporation were filed with
the Department of State of the
Commonwealth of Pennsylvania at
Harrisburg, Pennsylvania, on or about
February 12, 2012.

The name of the corporation is:
CUMBERLAND TOWNSHIP HISTORICAL
SOCIETY. The corporation has been
incorporated under the Pennsylvania
Nonprofit Corporation Law of 1988. The
purpose of the corporation is to conduct
a historical society and all other charita-
ble and education purposes within the
meaning of section 501(c)3 of the
Internal Revenue Code, or correspond-
ing section of a future federal tax code.
Cumberland Township Historical Society
P.O. Box 3413
Gettysburg, PA 17325

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 12-S-159
Quiet Title Action

M&L PROPERTIES, LLC, Plaintiff
vs.
WOODCREST, INC., Defendant

NOTICE

You are notified that the Plaintiffs have
commenced an action to quiet title
against you by complaint filed to the
above docket number on February 1,
2011, which action you are required to
defend.

You have been sued in court. If you
wish to defend against the claims set
forth in the following pages, you must
take action within twenty (20) days after
this complaint and notice are served by
entering a written appearance personal-
ly or by attorney and filing in writing with
the court your defenses or objections to
the claims set forth against you. You are
warned that if you fail to do so the case
may proceed without you and a judg-
ment may be entered against you by the
court without further notice for any
money claimed in the complaint or for
any other claim or relief requested by the
plaintiff. You may lose money or prop-
erty or other rights important to you.

This action concerns the premises
hereinafter described:

ALL that certain tract of land
lying, being and situated in the
Township of Cumberland, County
of Adams and Commonwealth of
Pennsylvania, being more particu-
larly bound and described as
follows:

BEGINNING at a point of land
being twenty-five feet (25') from a
USDI concrete monument set at
the northwestern corner of lands
now or formerly of the United
States of America, thence from
said point along lands now or
formerly of M&L Properties, LLC
along a curve to the left having a
radius of 100.00 feet, an arc
157.08 feet and a chord bearing
of south 59 degrees, 55 minutes,
30 seconds west for a distance of
141.42 feet to a point; thence
along said point and along the
right-of-way for Confederate
Drive north 14 degrees, 55 min-
utes, 30 seconds east for a dis-
tance of 100 feet to a point being
a 5/8" rebar with SDGI cap set

along the right-of-way for
Woodcrest Drive; thence along
said point south 75 degrees, 04
minutes, 30 seconds east for a
distance of 100.00 feet to a point
being the place of BEGINNING.
CONTAINING 2,146.1 +/- square
feet.

SAID LEGAL DESCRIPTION
taken from a Boundary Plat pre-
pared by Sharrah Design Group,
Inc. dated October 5, 2011.

BEING part of Tract No. 1 which
Joseph P. Bushey and Clara M.
Bushey, husband and wife, by
their deed dated March 11, 1959
and recorded in the Office of the
Recorder of Deeds of Adams
County, Pennsylvania, in Deed
Book 224 at Page 280, granted
and conveyed unto Woodcrest,
Inc.;

AND BEING part of Tract No. 1
which Richard A. Brown and
Marie W. Brown, husband and
wife, by their deed dated January
6, 1959 and recorded in the Office
of the Recorder of Deeds of
Adams County, Pennsylvania, in
Deed Book 226 at Page 59,
granted and conveyed unto
Woodcrest, Inc.

YOU SHOULD TAKE THIS PAPER TO
YOUR LAWYER AT ONCE. IF YOU DO
NOT HAVE A LAWYER, GO TO OR
TELEPHONE THE OFFICE SET FORTH
BELOW TO FIND OUT WHERE YOU
CAN GET LEGAL HELP. THIS OFFICE
CAN PROVIDE YOU WITH
INFORMATION ABOUT HIRING A
LAWYER.

IF YOU CANNOT AFFORD TO HIRE A
LAWYER, THIS OFFICE MAY BE ABLE
TO PROVIDE YOU WITH INFORMATION
ABOUT AGENCIES THAT MAY OFFER
LEGAL SERVICES TO ELIGIBLE
PERSONS AT A REDUCED FEE OR NO
FEE:

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Phone: (717) 337-9846

John J. Murphy III, Esq.
Patrono & Associates, LLC
Attorney for Plaintiff
28 West Middle Street
Gettysburg, PA 17325
(717) 334-8098
PA ID# 91299